

06 CV 3947
PAM/JSMUNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
v.)	PETITION TO DETERMINE SEXUALLY
)	DANGEROUS PERSON DUE FOR
)	RELEASE UNDER 18 U.S.C. § 4248
ROGER DEAN TOM,)	
)	
Respondent.)	

The United States of America, by and through the United States Attorney for the District of Minnesota, moves the court for a hearing on the present mental condition of ROGER DEAN TOM pursuant to the provisions of 18 U.S.C. § 4248. In support of its Petition, the United States states as follows:

1. Respondent, ROGER DEAN TOM, is presently incarcerated at the Federal Medical Center (FMC) in Rochester, Minnesota. Respondent is currently incarcerated for Aggravated Sexual Abuse in violation of 18 U.S.C. § 2241(c), pursuant to a sentence imposed by the United States District Court for the District of Utah. Respondent is scheduled for release on October 4, 2006, with 60 months of supervised release to follow. A copy of the Judgment and Commitment Order is attached as Exhibit A.

2. Respondent has been examined by the Mental Health staff at FMC Rochester. It is the opinion of mental health professionals that Respondent is a sexually dangerous person who suffers from a serious mental illness, abnormality, or disorder, as a result of

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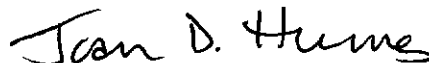
U.S. DISTRICT COURT MPLS

which he would have serious difficulty in refraining from sexually violent conduct or child molestation if he is released. At present, suitable arrangements for state custody are not available. Attached hereto as Exhibit B is the certificate (of Sexually Dangerous Person) executed by Harley G. Lappin, Director of the Federal Bureau of Prisons. Petitioner believes that there is clear and convincing evidence to establish that the Respondent is a Sexually Dangerous Person under 18 U.S.C. § 4248 and that he should be committed to the custody of the Attorney General.

WHEREOF, Petitioner moves this court to set a time and date for a hearing to determine whether Respondent should remain in custody; for an order finding that Respondent is a sexually dangerous person; for an order committing Respondent to the custody of the Attorney General for treatment pursuant to 18 U.S.C. § 4248 until suitable state placement may be found or until Respondent is no longer sexually dangerous to others, or until he is no longer sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment.

Dated this 2nd of October, 2006.

RACHEL K. PAULOSE
United States Attorney



By: JOAN D. HUMES
Assistant United States Attorney
Attorney ID Number
600 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55401



United States Attorney
District of Minnesota

06 OCT -2 PM 4:44

600 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415
U.S. DIST. COURT (612) 664-5600
MINNEAPOLIS, MN

October 2, 2006

Richard Sletten, Clerk
United States District Court
202 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Re: United States v. Roger Dean Tom

Dear Mr. Sletten:

Enclosed for filing, please find the original and one copy of a Petition to Determine Sexually Dangerous Person Due for Release Under 18 U.S.C. § 4248, with Exhibits A & B, and a proposed Order for the Magistrate Judge's convenience if he wishes to appoint a Federal Public Defender, a letter addressed to the Magistrate Judge, and Civil Cover Sheet.

The subject, Mr. Tom is an inmate at FMC Rochester. It is requested that this matter be assigned and referred to a Magistrate Judge as soon as possible so that a hearing date at FMC Rochester may be scheduled and noticed immediately.

Please indicate the assigned civil number, judge and date of filing on the enclosed copy of this letter.

Thank you for your assistance in this matter.

Sincerely,

RACHEL K. PAULOSE
United States Attorney

Joan D. Humes

BY: JOAN D. HUMES
Assistant U.S. Attorney
Attorney ID Number 214462

Enclosures

Civil No.: _____ Judge: _____ Date of Filing: _____

Deputy Clerk

cc: Dennis Bitz, FMC Rochester
Federal Public Defender

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. *

86 CV 3947 PAM/TJSm

UNITED STATES OF AMERICA,)	
)	EXHIBITS A & B
Petitioner,)	
)	PETITION TO DETERMINE
v.)	SEXUALLY DANGEROUS
)	PERSON DUE FOR RELEASE
)	UNDER 18 U.S.C. § 4248
ROGER DEAN TOM,)	
)	
Respondent.)	

RACHEL K. PAULOSE
United States Attorney

BY: JOAN D. HUMES
Assistant U.S. Attorney
Attorney ID Number 214462
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415
(612) 664-5600

SCANNED

OCT 02 2006

U.S. DISTRICT COURT MPLS

06cv3947
PJM/BSM

EXHIBIT A

AO 245B (Rev. 8/96) Sheet 1 - Judgment in a Criminal Case

United States District Court**District of Utah Central Division**

UNITED STATES OF AMERICA

v

Roger Dean Tom**JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed On or After November 1, 1987)

Case Number: **2:97CR00093-001****Reid Tateoka**

Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s) one of the indictment
- ☐ pleaded nolo contendere to count(s) which was accepted by the court.
- ☐ was found guilty on count(s) after a plea of not guilty.

Title & Section**Nature of Offense****Date Offense
Concluded****Count
Number(s)**

18 U.S.C. § 2241 (c)

Aggravated Sexual Abuse

05/13/1997

1

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s)

(is)(are) dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: ██████-4960

05/19/1997

Defendant's Date of Birth: ██████/1951

Date of Imposition of Judgment

Defendant's USM No.: 06256-081

Defendant's Residence Address:

in custody

Salt Lake City

UT

Defendant's Mailing Address:

in custody

Salt Lake City

Signature of Judicial Officer

David K. Winder

U.S. District Judge

Name & Title of Judicial Officer

Date

6-17-97

RECEIVED
JUN 17 1997
UNITED STATES MARSHAL

DEFENDANT: Roger Dean Tom
CASE NUMBER: 2:97CR00093-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 60 month(s).

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

☒ The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated below).

See Special Conditions of Supervision - Page 4

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Roger Dean Tom

CASE NUMBER: 2:97CR00093-001

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 50.00	\$ 2,500.00	\$ 13,376.00

If applicable, restitution amount ordered pursuant to plea agreement \$

FINE

The above fine includes costs of incarceration and/or supervision in the amount of \$

The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

RESTITUTION

☐ The determination of restitution is deferred until _____ . An Amended Judgment in a Criminal Case will be entered after such a determination.

☒ The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

Name of Payee* Total
Amount of LossAmount of
Restitution OrderedPriority Order
or Percentage
of Payment

Utah State Reparations Office

\$13,376.00

Totals: \$ 13,376.00

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

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PAmJSM

EXHIBIT B

CERTIFICATION OF A SEXUALLY DANGEROUS PERSON

1. I, Kathleen M. Kenney, am Assistant Director/General Counsel of the Federal Bureau of Prisons (Bureau). Pursuant to 28 C.F.R. § 0.97, the Director of the Bureau has delegated to me the authority to certify persons in Bureau custody as sexually dangerous as authorized by 18 U.S.C. § 4248(a).

2. Inmate Roger Tom, Register Number 06256-081, is currently serving a 121-month federal term of imprisonment at the Federal Medical Center in Rochester, Minnesota, following his conviction for aggravated sexual abuse in violation of 18 U.S.C. § 2241(c). Inmate Tom's projected release date is October 4, 2006, via good-conduct time release.

3. Based on a review of Inmate Tom's history, I certify he is a sexually dangerous person as defined by 18 U.S.C. § 4247(a)(5), and sexually dangerous to others as defined by 18 U.S.C. § 4247(a)(6).

I affirm, under the penalty of perjury, that the above statements are true and correct to the best of my knowledge.

Kathleen M. Kenney
Kathleen M. Kenney
Assistant Director/General Counsel

9/29/06
Date

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

U.S. Attorney's Office
600 U.S. Courthouse, 300 South Fourth Street
Minneapolis, MN 55415
(612) 664-5600

DEFENDANTS

ROGER DEAN TOM

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify) _____
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

18 U.S.C. Section 4248

Brief description of cause:

Petition to Determine Sexually Dangerous Person Due for Release

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$ _____
 UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

10-2-06

Jean D. Hume

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

SCANNED

U.S. DISTRICT COURT MPLS